

## ANALYSIS OF AMENDED BILL

Author: Knight Analyst: Garnier Bill Number: SB 1928

Related Bills: See Legislative History Telephone: 845-5322 Amended Date: 3-25-98

Attorney: Doug Bramhall Sponsor:

SUBJECT: Establishment of California Tobacco Settlement Trust Fund/  
Funds to be Return to Citizens in form of Personal Income Tax Credit

### SUMMARY

Under the Government Code, this bill would establish the California Tobacco Settlement Trust Fund (CTSTF). This bill would require any funds received by the state as the result of the National Tobacco Settlement Fund (NTSF) to be deposited into the CTSTF and returned to Californians, when appropriated by the Legislature, as a credit against the net tax imposed under the Personal Income Tax Law (PITL).

### EFFECTIVE DATE

This bill would become effective for taxable or income years beginning on or after January 1, 1999.

### LEGISLATIVE HISTORY

1998 - AB 2257

### SPECIFIC FINDINGS

Under the Government Code, **this bill** would require any funds received from the National Tobacco Settlement Fund (NTSF) to be deposited into the CTSTF, which this bill would establish in the State Treasury. Additionally, this bill would require that the moneys deposited in the CTSTF be returned to citizens of California, when appropriated by the Legislature, in the form of a tax credit under the PITL.

The Universal Tobacco Settlement Act (UTSA) (Senate Bill 1414, S. 1414), which would establish the NTSF, has not been enacted into law as of the date of this analysis. The author of S. 1414, Senator McCain, has obtained only four co-sponsors. In its present form, S. 1414 would require tobacco companies that are a party to the settlement to pay approximately \$368 billion over 25 years to the NTSF.

### DEPARTMENTS THAT MAY BE AFFECTED:

\_\_\_ STATE MANDATE

\_\_\_ GOVERNOR'S APPOINTMENT

#### Board Position:

\_\_\_ S \_\_\_ O  
\_\_\_ SA \_\_\_ OUA  
\_\_\_ N \_\_\_ NP  
\_\_\_ NA \_\_\_ NAR  
\_\_\_ X \_\_\_ PENDING

#### Agency Secretary Position:

\_\_\_ S \_\_\_ O  
\_\_\_ SA \_\_\_ OUA  
\_\_\_ N \_\_\_ NP  
\_\_\_ NA \_\_\_ NAR  
DEFER TO \_\_\_

#### GOVERNOR'S OFFICE USE

Position Approved \_\_\_  
Position Disapproved \_\_\_  
Position Noted \_\_\_

Department Director Date  
Gerald H. Goldberg 4/6/98

Agency Secretary Date

By: Date

S. 1414 contains provisions that would require the formation of the Public Health Trust Fund (PHTF) for grants to be made to the states to carry out the provisions of S. 1414. S. 1414 would require the transfer from the NTSF to the PHTF of \$2.5 billion the first and second years and \$3.5 billion, \$4 billion and \$5 billion for each succeeding year, respectively and \$2.5 billion for each year thereafter. Each state could receive an unspecified percentage of the PHTF balance. The funds received by a state would be required to be used:

- to reimburse the state for expenses incurred by the state (regardless if required by federal or other statute), or reimbursing others for the treatment for tobacco-related illnesses or conditions;
- to provide health care coverage, either directly or through arrangements with other entities, for uninsured individuals under 18 years of age who reside in the state;
- to establish a state tobacco products liability judgments and settlement fund, as required by the UTSA;
- to reimburse the state for expenses incurred in carrying out the tobacco licensure requirements of UTSA; and
- to carry out any other activities determined appropriate by the state.

The Secretary of Health and Human Services would be required to approve all programs or projects initiated by the state. The Secretary of Health and Human Services would be empowered to withhold funds from the state for non-compliance with requirements placed on the use of the funds.

Because S. 1414 has not been enacted into law, the provision of this bill allowing a PITL credit from funds received from the NTSF does not impact the Franchise Tax Board at present.

#### Policy Considerations

It is unclear whether the credit is to be refundable. Historically, refundable credits (such as the state renter's credit and the federal Earned Income Tax Credit) have had significant problems with fraud.

It is unclear whether returning CTSTF funds to California residents as a tax credit is the type of expenditure contemplated by the NTSF. The Secretary of Health and Human Services could withhold funds from California if the tax credit is deemed in non-compliance with NTSF's requirements

#### Technical Considerations

The bill amends only the Government Code. Language for the credit should be included in the PITL to specify how the credit would be calculated, who would receive the credit, and other particulars necessary to administer the credit.

The bill provides that the proceeds from the NTSF shall be returned to "citizens of this state" in the form of a tax credit. It is unclear how all citizens are to receive tax credits if all citizens do not actually file tax returns.

### Implementation Considerations

Implementing this bill would require some changes to existing tax forms and instructions, which could be accomplished during the normal annual update.

### FISCAL IMPACT

#### Departmental Costs

Insignificant departmental costs would be incurred implementing the bill. However, if the credit is intended to be refundable, the department's costs are anticipated to be significant.

#### Tax Revenue Estimate

It appears the federal agreement with the tobacco industry may preempt the states as to what can be done with any funds received from the national tobacco settlement agreement. As introduced, the national agreement would require participating tobacco manufacturers to pay \$368.5 billion over 25-years. Of this amount, roughly \$67.5 billion would be transferred to the Public Health Trust Fund for grants to states. It is not clear how these funds may be allocated to states. If California were to receive up to 10%-12% of the \$67.5 billion and 1/25<sup>th</sup> is received each year, the maximum General Fund impact from a PIT credit would be on the order of \$300 million annually. Assuming a nonrefundable credit, the \$300 million would result in each single taxpayer receiving approximately \$25 and each couple, \$50.

### BOARD POSITION

Pending.